Calendar No. 18

106TH CONGRESS
1ST SESSION

S. 314

[Report No. 106–5]

To provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 27, 1999

Mr. BOND (for himself, Mr. KERRY, Mr. BENNETT, Mr. DODD, Ms. SNOWE, Mr. MOYNIHAN, Mr. LEVIN, Mr. JOHNSON, Mr. JEFFORDS, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Small Business

FEBRUARY 23, 1999

Reported by Mr. BOND, without amendment

A BILL

To provide for a loan guarantee program to address the Year 2000 computer problems of small business concerns, and for other purposes.

1   *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4   This Act may be cited as the "Small Business Year

5 2000 Readiness Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the failure of many computer programs to recognize the Year 2000 may have extreme negative financial consequences in the Year 2000, and in subsequent years for both large and small businesses;

(2) small businesses are well behind larger businesses in implementing corrective changes to their automated systems;

(3) many small businesses do not have access to capital to fix mission critical automated systems, which could result in severe financial distress or failure for small businesses; and

(4) the failure of a large number of small businesses due to the Year 2000 computer problem would have a highly detrimental effect on the economy in the Year 2000 and in subsequent years.

SEC. 3. YEAR 2000 COMPUTER PROBLEM LOAN GUARANTEE PROGRAM.

(a) PROGRAM ESTABLISHED.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(27) YEAR 2000 COMPUTER PROBLEM PROGRAM.—

"(A) DEFINITIONS.—In this paragraph—

1   "(i) the term 'eligible lender' means

2   any lender designated by the Administra-

3   tion as eligible to participate in the general

4   business loan program under this sub-

5   section; and

6   "(ii) the term 'Year 2000 computer

7   problem' means, with respect to informa-

8   tion technology, and embedded systems,

9   any problem that adversely effects the

10   processing (including calculating, compar-

11   ing, sequencing, displaying, or storing),

12   transmitting, or receiving of date-depend-

13   ent data—

14   "(I) from, into, or between—

15   "(aa) the 20th or 21st cen-

16   turies; or

17   "(bb) the years 1999 and

18   2000; or

19   "(II) with regard to leap year

20   calculations.

21   "(B) ESTABLISHMENT OF PROGRAM.—The

22   Administration shall—

23   "(i) establish a loan guarantee pro-

24   gram, under which the Administration

25   may, during the period beginning on the

1 date of enactment of this paragraph and

2 ending on December 31, 2000, guarantee

3 loans made by eligible lenders to small

4 business concerns in accordance with this

5 paragraph; and

6 "(ii) notify each eligible lender of the

7 establishment of the program under this

8 paragraph, and otherwise take such actions

9 as may be necessary to aggressively market

10 the program under this paragraph.

11 "(C) USE OF FUNDS.—A small business

12 concern that receives a loan guaranteed under

13 this paragraph shall only use the proceeds of

14 the loan to—

15 "(i) address the Year 2000 computer

16 problems of that small business concern,

17 including the repair and acquisition of in-

18 formation technology systems, the pur-

19 chase and repair of software, the purchase

20 of consulting and other third party serv-

21 ices, and related expenses; and

22 "(ii) provide relief for a substantial

23 economic injury incurred by the small busi-

24 ness concern as a direct result of the Year

25 2000 computer problems of the small busi-

ness concern or of any other entity (includ-

ing any service provider or supplier of the

small business concern), if such economic

injury has not been compensated for by in-

surance or otherwise.

"(D) LOAN AMOUNTS.—

"(i) IN GENERAL.—Notwithstanding

paragraph (3)(A) and subject to clause (ii)

of this subparagraph, a loan may be made

to a borrower under this paragraph even if

the total amount outstanding and commit-

ted (by participation or otherwise) to the

borrower from the business loan and in-

vestment fund, the business guaranty loan

financing account, and the business direct

loan financing account would thereby ex-

ceed $750,000.

"(ii) EXCEPTION.—A loan may not be

made to a borrower under this paragraph

if the total amount outstanding and com-

mitted (by participation or otherwise) to

the borrower from the business loan and

investment fund, the business guaranty

loan financing account, and the business

1   direct loan financing account would there-

2   by exceed $1,000,000.

3   "(E) ADMINISTRATION PARTICIPATION.—

4   Notwithstanding paragraph (2)(A), in an agree-

5   ment to participate in a loan under this para-

6   graph, participation by the Administration shall

7   not exceed—

8   "(i) 85 percent of the balance of the

9   financing outstanding at the time of dis-

10   bursement of the loan, if the balance ex-

11   ceeds $100,000;

12   "(ii) 90 percent of the balance of the

13   financing outstanding at the time of dis-

14   bursement of the loan, if the balance is

15   less than or equal to $100,000; and

16   "(iii) notwithstanding clauses (i) and

17   (ii), in any case in which the subject loan

18   is processed in accordance with the re-

19   quirements applicable to the SBAExpress

20   Pilot Program, 50 percent of the balance

21   outstanding at the time of disbursement of

22   the loan.

23   "(F) PERIODIC REVIEWS.—The Inspector

24   General of the Administration shall periodically

25   review a representative sample of loans guaran-

1   teed under this paragraph to mitigate the risk

2   of fraud and ensure the safety and soundness

3   of the loan program.

4   "(G) ANNUAL REPORT.—The Administra-

5   tion shall annually submit to the Committees on

6   Small Business of the House of Representatives

7   and the Senate a report on the results of the

8   program carried out under this paragraph dur-

9   ing the preceding 12-month period, which shall

10   include information relating to—

11   "(i) the total number of loans guaran-

12   teed under this paragraph;

13   "(ii) with respect to each loan guaran-

14   teed under this paragraph—

15   "(I) the amount of the loan;

16   "(II) the geographic location of

17   the borrower; and

18   "(III) whether the loan was made

19   to repair or replace information tech-

20   nology and other automated systems

21   or to remedy an economic injury; and

22   "(iii) the total number of eligible lend-

23   ers participating in the program.".

24   (b) GUIDELINES.—

1   (1) IN GENERAL.—Not later than 30 days after

2   the date of enactment of this Act, the Administrator

3   of the Small Business Administration shall issue

4   guidelines to carry out the program under section

5   7(a)(27) of the Small Business Act, as added by this

6   section.

7   (2) REQUIREMENTS.—Except to the extent that

8   it would be inconsistent with this section or section

9   7(a)(27) of the Small Business Act, as added by this

10   section, the guidelines issued under this subsection

11   shall, with respect to the loan program established

12   under section 7(a)(27) of the Small Business Act, as

13   added by this section—

14   (A) provide maximum flexibility in the es-

15   tablishment of terms and conditions of loans

16   originated under the loan program so that such

17   loans may be structured in a manner that en-

18   hances the ability of the applicant to repay the

19   debt;

20   (B) if appropriate to facilitate repayment,

21   establish a moratorium on principal payments

22   under the loan program for up to 1 year begin-

23   ning on the date of the origination of the loan;

24   (C) provide that any reasonable doubts re-

25   garding a loan applicant's ability to service the

9

1 debt be resolved in favor of the loan applicant;

2 and

3   (D) authorize an eligible lender (as defined

4 in section 7(a)(27)(A) of the Small Business

5 Act, as added by this section) to process a loan

6 under the loan program in accordance with the

7 requirements applicable to loans originated

8 under another loan program established pursu-

9 ant to section 7(a) of the Small Business Act

10 (including the general business loan program,

11 the Preferred Lender Program, the Certified

12 Lender Program, the Low Documentation Loan

13 Program, and the SBAExpress Pilot Program),

14 if—

15   (i) the eligible lender is eligible to par-

16 ticipate in such other loan program; and

17   (ii) the terms of the loan, including

18 the principal amount of the loan, are con-

19 sistent with the requirements applicable to

20 loans originated under such other loan pro-

21 gram.

22 (c) REPEAL.—Effective on December 31, 2000, this

23 section and the amendments made by this section are

24 repealed.

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